

PARTNERS FOR SUCCESS

Afternoon Work Session

This event is hosted by:
Arizona Department of Real Estate

With special thanks to:
County Supervisors Association
for providing the venue

February 14, 2008

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Tom Adams,
Assistant Commissioner
Investigations

Jerome Jordan,
Assistant Commissioner,
Operations/Enforcement and Compliance

Roy Tanney,
Assistant Commissioner
Development Services

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*"I've always had this dream of buying a little farm
and then selling it off piece by piece."*

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What is “Acting in Concert?” In June 1998 the AZ Court of Appeals ruled, in Siler et al. v. Arizona DRE, 1CA-CV 97-0360, that

“[T]o act in concert means only that the parties must agree to act together to divide their land; they need not agree to violate the law. An agreement can be inferred from the parties’ conduct.”

"Advertising" –

Any communication to sell real property.

A.R.S. 32-2101(2)

"Common Promotional Plan" –

Offering contiguous land or land advertised as a common unit or by a common name for sale or lease by a person or group of persons collaborating or working together. A.R.S. 32-2101(14)

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“Improved Lot” –

A lot or parcel with building or contract to construct a building within 2 years.

A.R.S. 32-2101(25)

“Sale or lease” –

Every disposition, transfer, option or offer or attempt to dispose of or transfer real property.

A.R.S. 32-2101(50)

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The Investigative Process

1. Complaint received and reviewed
 - a. If true, is it a violation within ADRE's jurisdiction?
 - b. If true, what type of violation is it? (illegal subdivision, subdivision violation, etc.)
2. Investigation opened, case number and investigator assigned
3. Investigator may contact complainant for additional information/clarification

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The Investigative Process (cont)

4. Investigator gathers documents
 - a. Titles and title transfers/title history
 - b. LLC/Corporation members
 - c. Survey information (who ordered them, when, who did them, etc.)
 - d. Water/utilities – who ordered them, who paid for them, how many “drops” or connections...
 - e. Permits – who ordered, paid, when, etc.
 - f. Notary – same one used? Review log

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The Investigative Process (cont)

5. Follow the money – who paid for what when?
6. Contact respondents for a written statement
7. Contact respondents for an interview, if necessary

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The Investigative Process (cont)

8. Determine if the same real estate broker or salesperson(s) handle the sales
9. Visit the site and take pictures
10. Prepare graphs, charts and spreadsheets tracking the parcels/ people



GET EVERYTHING
IN WRITING.
OTHERWISE,
YOU'LL END UP
BROKE AND
LIVING IN A
CAVE ON TOP
OF A ~~AD/216~~
MOUNTAIN

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1. A subdivision was created
 - a. More than 5 parcels
 - b. By one person or a group working in concert
2. The respondents were involved

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ADRE action on violations may include:

- Issue and record a summary order suspending sales.
- Consult with the city or county officials about solutions to satisfy the violation.
- Buyer rescission.
- \$1,000.00 civil penalty for each infraction.
- Revocation or suspension of real estate licenses.
- Education requirements.

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Letter to County Staff:

The Arizona Department of Real Estate (“Department”) has conducted and completed an Investigation regarding illegal subdivision activities involving and located within (description of the land/parcels being investigated). The Department will attempt to negotiate a Consent Order with the respondents named in this matter. As part of the proposed Consent Order, the Department is considering the following “Cooperation With County” language as follows and would appreciate your written input:

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“Respondent(s) shall cooperate with (Name of County) and current owners of parcels within (the Property or Subdivision Name) to obtain a county-approved subdivision plat and to satisfy all other county land development and infrastructure requirements for (the Property or Subdivision Name), and shall be jointly and severally responsible for meeting any financial obligations connected thereto. Within Ninety (90) days of entry of this Order, Respondent(s) shall commence action to comply with all such requirements and shall thereafter proceed expeditiously to comply in all respects with all such requirements.

Within One (1) year of the entry of this Order, Respondents shall obtain and submit to the Department Compliance Officer written statements from the responsible officials at the (County) Department of Community Development (or appropriate department, depending on county), and other appropriate county and state agencies, departments or divisions that Respondent(s) have obtained approvals and complied with all applicable requirements with respect to (the Property or Subdivision Name), including but not limited to compliance with applicable floodplain regulations and road engineering and construction standards, and certificates or approvals for permanent access to all parcels, a public water system, waste disposal system, and road and utility easements as required. Extensions of this deadline may be granted only upon good cause and the express written consent of the appropriate officials referenced above.”

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As a representative of the County, you find the proposed language regarding “Cooperation with County” is:

- ☐ Satisfactory, with no further changes necessary.
- ☐ Incomplete, the County would like to see additional language concerning specific issues to be addressed and included into the Department’s Consent Order as an Exhibit. The County’s Exhibit is attached to this form.
- ☐ Unnecessary, the Respondent(s) has(ve) complied with all applicable County requirements.

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Next Steps:

- Continue Dialog
- Future Taskforce Meetings
- Implement Strategies

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Thank You!